

**Letter of Findings: 09-0262R
Indiana Gross Retail Tax
For 2009**

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I. Automobile Purchase – Gross Retail Tax.

Authority: IC § 6-2.5-2-1 et seq.; [45 IAC 2.2-3-5](#); Colo. Rev. Stat. § 39-26-713(2)(f).

Taxpayer argues that the Department of Revenue erred when it denied taxpayer's claim for a refund of Indiana Gross Retail Tax on the purchase price of an automobile.

STATEMENT OF FACTS

Taxpayer purchased an automobile in Indiana in January 2009, paying Indiana sales tax at the time of purchase.

Less than one week later, taxpayer "titled" the car in Colorado. Copies of documents submitted by taxpayer suggest payment of Colorado state sales tax.

Taxpayer filed a claim for refund with the Indiana Department of Revenue (Department) a day after titling the automobile in Colorado. The Department denied Taxpayer's claim for a refund. Taxpayer protested the Department's decision. The Department conducted an administrative hearing. This Letter of Findings results.

DISCUSSION

I. Automobile Purchase – Gross Retail Tax.

Taxpayer protested the Department's denial of refund. Taxpayer argued that taxpayer lives in Colorado, that taxpayer titled the automobile in Colorado, and that taxpayer paid Colorado sales tax when taxpayer titled the car in Colorado.

Indiana imposes a sales tax on retail transactions. IC § 6-2.5-2-1 et seq. The person who acquires property in a retail transaction is liable for the tax on the transaction. IC § 6-2.5-2-1(b). For transactions involving the sale of an automobile, [45 IAC 2.2-3-5\(c\)](#) states that "[i]f the vehicle is purchased from a registered Indiana motor vehicle dealer, the dealer must collect the tax and provide the purchaser a completed form ST-108 showing that the tax has been paid to [the dealer]." The purchaser must pay the tax "unless such purchaser is entitled to one or more of the exemptions as provided on form ST-108." [45 IAC 2.2-3-5\(b\)](#). Subsection (f) limits purchasers' bases for exemptions to only those "reasons listed on the reverse side of the revised form ST-108." [45 IAC 2.2-3-5\(f\)](#).

Taxpayer purchased the automobile from an Indiana dealer on January 1, 2009. By January 5, 2009, taxpayer had transported the vehicle to Colorado, titled it in that state, and—apparently—paid Colorado state use tax at the time taxpayer titled the vehicle.

Nothing presented by taxpayer indicates that taxpayer did not purchase an automobile in a straightforward retail transaction with an Indiana retail merchant. Sales tax was clearly due at the time of the transaction; the subsequent payment of Colorado sales tax did not affect taxpayer's liability incurred at the time taxpayer purchased and took possession of the vehicle. Taxpayer decided to purchase an automobile from an Indiana dealership and presented no evidence whatsoever that the January 1 purchase was exempt from sales tax. By deciding to pay Colorado use tax, the taxpayer does not activate a "reach-back" effect negating taxpayer's responsibility to pay sales tax on the January 1 retail transaction.

Taxpayer's remedy lies under Colorado law; Colo. Rev. Stat. § 39-26-713(2)(f) provides that Colorado shall grant a tax credit against the use tax imposed with respect to a person's storage, use, or consumption in Colorado of tangible personal property purchased by the person in another state.

Indiana sales tax was due at the time taxpayer purchased the automobile from the Indiana dealer. When taxpayer transported and titled the vehicle in Colorado, taxpayer should have applied for a credit against any attendant Colorado use tax liability.

FINDING

Taxpayers' protest is respectfully denied.

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